

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RONALD HUDSON,

Plaintiff,

v.

CATCH, INC., et. al.,

Defendants.

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CIVIL ACTION

NO. 16-2032

**ORDER**

AND NOW, this 7<sup>th</sup> day of October, 2016, upon consideration of Defendants CATCH, Inc., Dina Della Ducata and Raymond A. Pescatore, Jr.'s Motion to Dismiss Plaintiff's First Amended Complaint Pursuant to Fed. R. Civ. P. (12)(b)(1) and 12(b)(6) and/or Motion to Strike Pursuant to Fed. R. Civ. P. 12 (f)(2), and the briefing in support thereof and in opposition thereto, **IT IS ORDERED** that the Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Count I of the First Amended Complaint is **DISMISSED WITHOUT PREJUDICE** to the extent it asserts a claim on the theory that Plaintiff qualifies as a disabled person within the meaning of the Americans with Disabilities Act ("ADA");
2. Defendants' Motion to Dismiss is **DENIED** as to the portion of Count I of the First Amended Complaint that asserts a claim based on the theory that Plaintiff was regarded as disabled by Defendants within the meaning of the ADA;
3. Count II of the First Amended Complaint is **DISMISSED WITHOUT PREJUDICE**; and

4. Plaintiff is granted leave to file a Second Amended Complaint within 14 days of the issuance of this Order that is consistent with the terms of the Memorandum Opinion that accompanies this Order.

BY THE COURT:

/s/ Marilyn Heffley  
MARILYN HEFFLEY  
UNITED STATES MAGISTRATE JUDGE